

Federal Court



Cour fédérale

Date: **1st August 2025**
Dossier/Case: **FCCAct-2025-07-25/OPE**
Référence/Citation: **2025 FC 7**

OTTAWA (Ontario)

Newplayerqwerty, J.

ENTRE / BETWEEN

OPERATION_LAW1

Claimant / Demandeur

and / et

**THE COMMISSIONER OF THE ROYAL CANADIAN MOUNTED POLICE / LE COMMISSAIRE DE
LA GENDARMERIE ROYALE DU CANADA**

First Defendant / Premier défendeur

and / et

**THE MINISTER OF EMERGENCY PREPAREDNESS AND PUBLIC SAFETY / LE MINISTRE DE
LA SÉCURITÉ PUBLIQUE ET DE LA PROTECTION CIVILE**

Second Defendant / Deuxième défendeur

and / et

THE PRIME MINISTER / LE PREMIER MINISTRE

Third Defendant / Troisième défendeur

and / et

**THE SPEAKER OF THE HOUSE OF COMMONS / LE PRESIDENT DE LA CHAMBRE DES
COMMUNES**

Interested Party / Partie intéressée

and / et

THE SPEAKER OF THE SENATE / LE PRESIDENT DU SENAT

Interested Party / Partie intéressée

JUDGMENT ON MOTION TO RECUSE

I. INTRODUCTION

- [1] The claimant Mr Law is the director of the Parliamentary Protective Service (the Service). This action relates to a complex set of legal disputes between various government bodies as to the remit and powers of the Service, to which the Speakers of the two Houses of Parliament, the Minister of Emergency Preparedness, the Prime Minister, the Attorney General and the Commissioner of the Royal Canadian Mounted Police are all parties. In light of the complex nature of these proceedings, I entered an order under Rule 385 of the Federal Court Rules (SOR/98-106) (“the Rules”) setting deadlines for various pleadings to be filed, and informed the parties of my intent to bring the case to trial expeditiously.
- [2] Over the course of these proceedings, I have been presented with very numerous submissions, and other notices, requests and applications, known by various names (collectively, “filings”), some of which purport to require immediate action from the Court. After initial inspection and consideration, I

determined that the vast majority of those filings pertained to the merits of the action before the Court, and indicated to the filing party that they would be taken into account at judgment on the merits, but that the Court would not rule on them before.

- [3] Mr Law takes issue with this Court's decision in respect of several such filings that he has made. Dissatisfied by this Court's response to them, he filed a "request" to recuse on the 31st of July 2025. The Court notified the other parties of this request and invited their submissions on that point. Only the Prime Minister filed such a submission.

II. DOES THE COURT NEED TO RECUSE ITSELF?

- [4] "The basic framework for assessing a claim" that a judge is biased was described in *Cojocaru v. British Columbia Women's Hospital and Health Centre*, 2013 SCC 30 (CanLII), [2013] 2 SCR 357, at para 22, per McLachlin, C.J., as she was then known:

"The claim is procedural, focussing on whether the litigant's right to an impartial and independent trial of the issues has been violated. There is a presumption of judicial integrity and impartiality. It is a high presumption, not easily displaced. The onus is on the person challenging the judgment to rebut the presumption with cogent evidence showing that a reasonable person apprised of all the relevant circumstances would conclude that the judge failed to come to grips with the issues and decide them impartially and independently."

- [5] As Le Dain J. explained in *Valente v. The Queen*, 1985 CanLII 25 (SCC), [1985] 2 SCR 673, at para 15, "[i]mpartiality refers to a state of mind or attitude of the tribunal in relation to the issues and the parties in a particular case. The word 'impartial' ... connotes absence of bias, actual or perceived."

- [6] Under Canadian law, in order for a judge to be disqualified, "one standard has now emerged," *Wewaykum Indian Band v. Canada*, 2003 SCC 45 (CanLII), [2003] 2 SCR 259, at para 60, that of a reasonable apprehension of bias. Namely, the question that must be asked "is what would an informed person, viewing the matter realistically and practically — and having thought the matter through — conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly." *Wewaykum, id.*, quoting *Committee for Justice and Liberty v. National Energy Board*, 1976 CanLII 2 (SCC), [1978] 1 S.C.R. 369, at p. 394 per de Grandpré, J.

- [7] Furthermore, as the Supreme Court of Canada explained in *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General)*, 2015 SCC 25 (CanLII), [2015] 2 SCR 282, at para 26:

"The inquiry into whether a decision-maker's conduct creates a reasonable apprehension of bias, as a result, is inherently contextual and fact-specific, and there is a correspondingly high burden of proving the claim on the party alleging bias."

- [8] When deciding an application or motion to disqualify or recuse, the Supreme Court has likewise highlighted that "[t]he assessment is difficult and requires a careful and thorough examination of the proceeding. The record must be considered in its entirety to determine the cumulative effect of any transgressions or improprieties." *Miglin v. Miglin*, 2003 SCC 24 (CanLII), [2003] 1 SCR 303, at para 26.

- [9] The facts of Mr Law's application, however, are insufficient to give rise to the disqualification of a judge. The gravamen of his argument is that I have, allegedly unfairly, made rulings adverse to him in refusing to take the action that he sought from this Court in his various filings. However, Mr Law's "submission rests on ... false premises. ... [A]dverse rulings, even rulings which are subsequently held to be wrong by a higher court, do not demonstrate bias." *OZ Merchandising Inc. v. Canadian Professional Soccer League Inc.*, 2021 ONCA 520 (CanLII), at para 59. Indeed, the Federal Court of

Appeal considered just such an argument in *Collins v. Canada*, 2011 FCA 171 (CanLII). Like it held in its judgment at para 11:

“The simple fact that judges render a judgment which is unfavourable to a party cannot in itself result in a conclusion of bias. Were it otherwise, no judgment could ever be issued. A reasonable apprehension of bias must be shown to exist either in the judgment itself, in the comportment of the judge or by some other means.”

[10] The Court of Appeal of Alberta held likewise in *Piikani Nation v McMullen*, 2020 ABCA 366 (CanLII), at para 55:

“On appeal, [the Appellant] ... implicit[ly] submi[ts] that adverse rulings demonstrate bias. An adverse ruling does not give rise to an apprehension of bias: *Vanderidder v Aviva Canada Inc*, 2010 ONSC 6222 at paras 16-9, 7 CPC (7th) 219. As stated in *Alberta Health Services v Wong*, 2018 ABCA 104 at para 9:

Judges (especially case management judges) must sometimes make numerous decisions in any one proceeding. The law is clear that a judge need not recuse himself just because he has made some, or many, rulings against any one party: *Dykun v Odishaw*, 2001 ABCA 204 at para 8, 286 AR 392; *SG v Larochelle*, 2005 ABCA 111 at para 5, 363 AR 326; *Collins v Canada*, 2011 FCA 171 at paras 10-11, 421 NR 201. Making decisions is the essence of the judicial function, and a reasonable person, properly informed, would not conclude that a judge would have a bias towards any one party just because that party was unsuccessful on one particular application.”

[11] Although presented somewhat differently, all of Mr Law’s grounds for disqualification fall squarely within this category, namely that the Court has: (1) ignored or rejected his entreaties to require other parties to file documents in a certain form; (2) granted extensions to parties in which to file pleadings; (3) refused to strike documents which Mr Law believes to be noncompliant with the Court’s rules; (4) “chilled” the applicant’s rights by suggesting that if I were to enforce certain rules with greater rigour, I would have to do so to Mr Law too; and (5) indicated that the majority of Mr Law’s filings would be considered with the merits on judgment.

[12] I turn lastly to Mr Law’s argument that I must disqualify myself because I am unable to approach his cas with “an open mind”. Indeed, in *Yukon Francophone School Board*, at para 23, the Supreme Court “confirmed the requirement of impartial adjudication for maintaining public confidence in the ability of a judge to be genuinely open,” quoting with approval its previous holding that “[t]he essence of impartiality lies in the requirement of the judge to approach the case to be adjudicated with an open mind.” *Wewaykum Indian Band*, at para 5.

[13] While closely tracking the language of open-mindedness, none of Mr Law’s, nor the Prime Minister’s, submissions appear to make out any factual description of an instance in which I have exhibited closed-mindedness. Indeed, by reserving judgment on issues presented by Mr Law’s filings until after trial, the Court is leaving its mind *open* to persuasion both by Mr Law himself and by other parties who might disagree with Mr Law. It has not decided those issues against Mr Law: instead the Court has determined that as they are inseparable from the merits of Mr Law’s underlying action, they should be dealt with together. The contrary, as a matter of fact, would be evidence of close-mindedness towards the submissions made by the other parties. The fact that Mr Law is left in suspense over the outcome of several parts of this case, while understandably stressful for Mr Law, is not evidence of judicial bias.

[14] I therefore deny Mr Law’s motion for recusal.

III. WHY THE COURT HAS DECLINED TO RULE ON THE BULK OF MR LAW'S REQUESTS

[15] Although, for the reasons explained previously, this Court does not need to reach the substantive merit of Mr Law's accusations that it has abusively or unfairly dealt with Mr Law's filings, I recognise that the Court's refusal—albeit only provisional—to deal with the bulk of them may be the understandable cause of significant confusion for Mr Law, and so I endeavour, briefly, to offer him an explanation.

Paper Filings

[16] To begin with, Mr Law taxes the Court with exhibiting favouritism towards the Commissioner of the Royal Canadian Mounted Police by permitting only one party to make “informal” filings as opposed to filings in the formal documentary form preferred by the Court. He exhorts the Court for refusing to strike the Commissioner's filings under Rules 67, 74, and 221 of the Rules.

[17] Although Mr Law may feel that way, the Court's leniency is not, however, directed to one party. To begin with, several parties, including Mr Law and the Commissioner, are self-represented litigants. The framework for dealing with litigants like these are set out in Canadian Judicial Council's “*Statement of Principles on Self-represented Litigants and Accused Persons (2006)*,” which was expressly endorsed by the Supreme Court in *Pintea v Johns*, 2017 SCC 23 at para. 4, [2017] 1 SCR 470. As the Federal Court of Appeal explained, “when unrepresented litigants appear before courts, caution is required. ... [J]udges are advised to ensure that self-represented litigants are treated fairly and are in a position to fully understand and participate in a proceeding.” *Haynes v. Canada (Attorney General)*, 2023 FCA 244 (CanLII), at para 10. These principles were recently expounded at some length by the Court of Appeal of Ontario in *Girao v. Cunningham*, 2020 ONCA 260 (CanLII), at paras 149-50, per Lauwers J.A.:

“[149] Numerous trial fairness concerns arise for self-represented litigants. In *Pintea v. Johns*, 2017 SCC 23, [2017] 1 S.C.R. 470, at para. 4, the Supreme Court endorsed the Statement of Principles on Self-represented Litigants and Accused Persons (2006) issued by the Canadian Judicial Council. The Statement provides guidance to the judiciary on how to ensure litigants “understand and meaningfully present their case, regardless of representation”: at p. 2. The enumerated principles appear under the following headings: promoting rights of access, promoting equal justice, and responsibilities of the participants in the justice system. The Statement sets out directions for the judiciary, court administrators, self-represented persons, and members of the bar. The section on promoting equal justice is particularly relevant. It states:

1. Judges and court administrators should do whatever is possible to provide a fair and impartial process and prevent an unfair disadvantage to self-represented persons.
2. Self-represented persons should not be denied relief on the basis of a minor or easily rectified deficiency in their case.
3. Where appropriate, a judge should consider engaging in such case management activities as are required to protect the rights and interests of self-represented persons. Such case management should begin as early in the court process as possible.
4. When one or both parties are proceeding without representation, non-prejudicial and engaged case and courtroom management may be needed to protect the litigants' equal right to be heard. Depending on the circumstances and nature of the case, the presiding judge may:
 - a. explain the process;
 - b. inquire whether both parties understand the process and the procedure;
 - c. make referrals to agencies able to assist the litigant in the preparation of the case;
 - d. provide information about the law and evidentiary requirements;

- e. modify the traditional order of taking evidence; and
- f. question witnesses.

[150] In *Morwald-Benevides v. Benevides*, 2019 ONCA 1023, 148 O.R. (3d) 305, I surveyed some of the responsibilities that trial judges have to self-represented litigants, and noted, at para. 34:

It is no longer sufficient for a judge to simply swear a party in and then leave it to the party to explain the case, letting the party flounder and then subside into unhelpful silence. As this court has noted, “it is well-accepted that trial judges have special duties to self-represented litigants, in terms of acquainting them with courtroom procedure and the rules of evidence”: *Dujardin v. Dujardin*, 2018 ONCA 597, 423 D.L.R. (4th) 731, at para. 37, repeated in *Gionet v. Pingue*, 2018 ONCA 1040, 22 R.F.L. (8th) 55, at para. 30. The court added, at para. 31 of *Gionet*: “In ensuring that a self-represented litigant has a fair trial, the trial judge must treat the litigant fairly and attempt to accommodate their unfamiliarity with the trial process, in order to permit them to present their case”, citing *Dauids v. Dauids* (1999), 1999 CanLII 9289 (ONCA), 125 O.A.C. 375, at para. 36. See also *Manitoba (Director of Child and Family Services) v. J.A.*, 2006 MBCA 44, at paras. 19-20.”

[18] While the Court has extended a small measure of solicitude to the Commissioner, the Court has not done so in a manner which places the Commissioner uniquely beyond the provisions of the Rules, nor would the procedural vehicles proposed by Mr Law be appropriate for dealing with the defects that the Commissioner’s filings present.

[19] Rule 221(1) sets out an exhaustive set of circumstances in which I may exercise my power to strike out a pleading, namely if it:

- (a) discloses no reasonable cause of action or defence, as the case may be,
- (b) is immaterial or redundant,
- (c) is scandalous, frivolous or vexatious,
- (d) may prejudice or delay the fair trial of the action,
- (e) constitutes a departure from a previous pleading, or
- (f) is otherwise an abuse of the process of the Court.

[20] As such, Rule 221 does not encompass circumstances in which a Court may strike out a pleading for procedural imperfections in filing. As for Rule 67, it prescribes rules only for the names and styles of the parties to a case in the “originating document.” It is not immediately apparent what bearing it has on subsequent filings made in the wrong format. Similarly, Rule 74 is no more suited to dealing with minor, purely formal, deficiencies. Instead, “Rule 74 deals with whether a document should be removed because it suffers from a fatal substantive defect, such as jurisdiction.” *Canada (Citizenship and Immigration) v. Tennant*, 2018 FCA 132 (CanLII), at para 7. The failure to file submissions in an appropriate paper format is not such a “fatal” defect.

[21] Furthermore, the Commissioner is not a special beneficiary of some extravagant leniency of the Court. First, most, if not all, of the parties to these proceedings have benefitted from similar tolerance and understanding on the part of the Court. Second, the Court’s direction for filing in paper form of substantive submissions is not designed so as to “trap out” those who, for whatever reason, have failed to file paper-form pleadings. As I made clear from the onset, the chief justification for my direction to that effect is so as to ensure the legibility of the principal arguments advanced by each party in this six-party case. And indeed, each time the Commissioner has made an extended argument in a non-paper form, I have requested that he refile his submissions in the appropriate form. The Court’s refusal to strike out those arguments outright derives only from the overarching principle of fairness,

and to the Court's duty under Rule 3 to "interpret[] and appl[y]" the Rules "so as to secure the just, most expeditious and least expensive outcome of every proceeding."

[22] In respect of my suggestion that I would be obliged to reject for filing Mr Law's own filings were I to enforce greater procedural rigour upon the other parties, with the benefit of hindsight I realise that my comments may have given rise to some ambiguity as to their intent. Their only purpose was to illustrate that no particular party was in receipt of special solicitude or consideration from the Court, not that I intended to retaliate against Mr Law for raising his objections. I apologise to Mr Law for any misunderstanding which may have arisen from there.

Extensions of Time

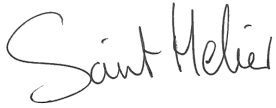
[23] The other limb of Mr Law's concerns amount to an argument that I have exhibited bias by granting extensions of time for the filing of interventions past the deadline ordered by the Court. It is hard to see where Mr Law forms the basis of this argument, however. Nobody has sought to file a motion to intervene, whether timely or not, and the Court has not granted any putative intervenor any extension of time.

[24] The Court's order will issue with this judgment.

ORDER ON CLAIMANT'S MOTION TO RECUSE OR DISQUALIFY JUDGE

Mr Law's motion to recuse is denied for the reasons set out in the accompanying judgment.

Signed, 1st August 2025 at Ottawa.

A handwritten signature in cursive script, appearing to read "Saint-Helien".

Newplayerqwerty

Juge de la Cour fédéral du Canada

Justice of the Federal Court of Canada